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CONVENTIONS ON EARLY NOTIFICATION OF A NUCLEAR ACCIDENT AND ON ASSISTANCE IN THE CASE OF A NUCLEAR ACCIDENT OR RADIOLOGICAL EMERGENCY

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

TWO CONVENTIONS: (A) THE CONVENTION ON EARLY NOTIFICATION OF A NUCLEAR ACCIDENT, WITH DECLARATION; AND (B) THE CONVENTION ON ASSISTANCE IN THE CASE OF A NUCLEAR ACCIDENT OR RADIOLOGICAL EMERGENCY, WITH DECLARATIONS; BOTH ADOPTED IN VIENNA AT A SPECIAL SESSION OF THE GENERAL CONFERENCE OF THE INTERNATIONAL ATOMIC ENERGY AGENCY ON SEPTEMBER 26, 1986, AND SIGNED BY THE UNITED STATES ON THAT DATE

MARCH 23, 1987.—Conventions were read the first time, and together with the accompanying papers, referred to the Committee on Foreign Relations and ordered to be printed for the use of the Senate.

U.S. GOVERNMENT PRINTING OFFICE

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II

LETTER OF TRANSMITTAL

THE WHITE HOUSE, *March 23, 1987.*

To the Senate of the United States:

I submit herewith, for Senate advice and consent to ratification, the Convention on Early Notification of a Nuclear Accident, with declaration, and the Convention on Assistance in the Case of a Nuclear Accident or Radiological Emergency, with declarations. These conventions were adopted on September 26, 1986, in Vienna at a Special Session of the General Conference of the International Atomic Energy Agency and signed by the United States on that date. I also transmit herewith, for the information of the Senate, the report of the Department of State concerning the conventions.

At the May 1986 Tokyo Economic Summit, in view of the Chernobyl accident, I proposed, and the other heads of government agreed, that a convention providing for prompt notification of nuclear accidents with significant transboundary effects should be urgently drafted. The international community has acted with exceptional speed. Two conventions have been prepared and adopted by consensus. The convention on notification requires state parties to report promptly the occurrence of the accident and to provide information relevant to minimizing radiological consequences. The convention on assistance sets out an international framework to facilitate prompt assistance in the event of a nuclear accident or radiological emergency.

The United States has initiated many steps to deal with nuclear safety in the aftermath of the Chernobyl accident. These conventions fill key gaps that existed in the international structure; they reflect an international consensus. There should be a domestic consensus in support of the conventions as well, and I urge the Senate to act expeditiously in giving its advice and consent to ratification.

RONALD REAGAN.

LETTER OF SUBMITTAL

DEPARTMENT OF STATE,
Washington, March 10, 1987.

THE PRESIDENT;
The White House.

THE PRESIDENT: I have the honor to submit to you, with a view to their transmission to the Senate for advice and consent to ratification with proposed declarations, the Convention on Early Notification of a Nuclear Accident and the Convention on Assistance in the Case of a Nuclear Accident or Radiological Emergency.

These conventions were adopted and opened for signature in Vienna on September 26, 1986, by the Special Session of the International Atomic Energy Agency (IAEA) General Conference. Secretary of Energy Herrington signed them for the United States, subject to ratification and with certain declarations, on that date.

In the wake of the Chernobyl accident, you proposed, and the other heads of government at the May 1986 Tokyo Economic Summit agreed, that it was urgent to elaborate a convention dealing with notification of nuclear accidents with potential transboundary consequences. In May and June, the IAEA Board of Governors decided to convene a representative group of government experts to draft two conventions, one dealing with notification and the other dealing with emergency assistance in the event of a nuclear accident or radiological emergency.

From July 21 to August 15, government experts from 62 countries met in Vienna. The United States delegation to this meeting was headed by the Department of State and included participants from the Departments of Energy and Defense, the Nuclear Regulatory Commission, the Arms Control and Disarmament Agency, the Federal Emergency Management Agency and the U.S. Mission in Vienna.

The drafting took into account an earlier United States initiative. In 1981, the United States proposed a convention on nuclear safety cooperation, which would have included notification requirements for certain nuclear accidents and a framework for emergency assistance in the event of such an accident. At that time the international community was not prepared to negotiate conventions on the subject matter, but agreed on two sets of guidelines which were published as IAEA documents INFCIRC/310 and INFCIRC/321, and formed the starting point for the IAEA Secretariat drafts for the 1986 government experts meeting. That meeting resulted in consensus agreement on the texts of the two conventions.

The IAEA held a Special Session of the General Conference on nuclear safety in Vienna September 24–26, 1986. This meeting was

attended by 94 member nations, with many of the delegations led by cabinet ministers. On September 26 the meeting adopted the two conventions by consensus and opened them for signature. The United States and 50 other countries signed both conventions on that date. The notification convention entered into force internationally on October 27, 1986. As of February 15, 1987, the notification convention had been signed by 60 countries and ratified by 7 countries. The assistance convention entered into force internationally on February 26, 1987. The assistance convention has been signed by 59 countries and ratified by 4.

Convention on Early Notification of a Nuclear Accident.—The convention requires state parties to the convention to notify affected states and the IAEA of certain nuclear accidents and to provide and update specified basic information relevant to minimizing the radiological consequences in affected states.

Under article 1, the convention applies in defined circumstances to any accident involving the following facilities or activities of a state party or of persons or legal entities under its jurisdiction or control; any nuclear reactor; any nuclear fuel cycle facility; any radioactive waste management facility; the transport and storage of nuclear fuels or radioactive wastes; the manufacture, use, storage, disposal and transport of radioisotopes for agricultural, industrial, medical and related scientific and research purposes; and the use of radioisotopes for power generation in space objects. The circumstances are that the accident is one (a) from which a release of radioactive material occurs or is likely to occur, (b) which has resulted or may result in a transboundary release of that material, and (c) where the transboundary release could be of radiological safety significance for another state.

Article 2 requires that the state party referred to in article 1 forthwith notify those states which are or may be physically affected and the IAEA of the accident, its nature, the time of its occurrence and its exact location where appropriate. That state party must also promptly provide affected states and the IAEA the available information relevant to minimizing radiological consequences specified in article 5. In the case of an accident which occurs in a location that could have resulted in reporting obligations for two state parties, the responsibility for reporting is unambiguously defined to lie with the state with jurisdiction over the nuclear facility involved. This avoids multiple reporting responsibilities for the same accident, with the possibility of confusion or controversy at a time of crisis, and insures that the one state which best knows about the nature and development of the accident has the reporting responsibility.

While the reporting obligations in the convention apply to a wide range of civil and military facilities and activities, they do not apply to accidents involving nuclear weapons, nuclear weapon components, capabilities, operations or plans, or plans for testing, storage, transportation or recovery of such weapons or components, and related nuclear materials. However, article 3 provides that nuclear accidents other than those specified in article 1 may be notified at a state party's discretion with a view to minimizing radiological consequences. In this regard, Secretary Herrington reaffirmed longstanding U.S. policy at the Special Session of the IAEA

General Conference: "The United States will . . . voluntarily provide notification with respect to any other nuclear accident which has or may have transboundary effects of radiological safety significance." Similar statements concerning voluntary notification were also made by the other nuclear-weapons states.

Article 4 requires that the IAEA inform state parties, member states, other states that may be physically affected and relevant international intergovernmental organizations of the notification of the accident and, upon request, provide them with the information made available under article 5 about the accident. The IAEA role under article 4 of the notification convention was intentionally limited to the reception and transmission of information subsequent to an accident within the scope of article 1, consistent with the IAEA Statute.

Article 5 specifies the information to be provided. It recognizes, however, that a state should not delay providing information if some data are lacking, and thus calls for the data "as then available," to be supplemented at appropriate intervals by further relevant information. The information to be provided is: the time, exact location where appropriate, and nature of the accident; the facility or activity involved; the assumed or established cause and the foreseeable relevant development of the accident; the general characteristics of the release; relevant meteorological and hydrological conditions; results of relevant environmental monitoring; offsite protective measures taken or planned; and the predicted behavior of the release. The information may be used without restriction unless specifically provided in confidence. There is no obligation requiring that classified or controlled information be provided.

Article 6 requires a reporting state to respond promptly, as far as practicable, to a request for further information or consultation by an affected state party with a view to minimizing the radiological consequences in that state.

Under article 7, each state party is required to make known to the IAEA and to other state parties its competent authorities and point of contact for issuing and receiving notification and information under the convention. The points of contact and a focal point in the IAEA must be available continuously. The IAEA is required to maintain an up-to-date list of the national authorities and points of contact and to disseminate it appropriately.

Article 8 was inserted at the request of African states concerned about South Africa's unsafeguarded nuclear program. It calls upon the IAEA, if requested by a state party that does not have nuclear activities and borders on a state that does but is not a party, to conduct investigations into the feasibility and establishment of an appropriate radiation monitoring system to facilitate achievement of the objectives of the convention. This and other aspects of assistance to be provided by the IAEA are to be carried out consistently with the IAEA's statute and thus confined to peaceful uses applications.

Article 9 recognizes that state parties, in furtherance of their mutual interests, may consider, where deemed appropriate, bilateral or multilateral arrangements relating to the subject of the convention. No obligation to enter into such arrangements is created. Article 10 provides that the convention does not affect previous

agreements or future agreements concluded in accordance with its object and purpose.

Article 11 concerns dispute settlement. Paragraph 2 establishes procedures for compulsory arbitration or submission to the International Court of Justice. Paragraph 3 allows a state to declare it is not bound by these procedures. Because the convention covers certain military nuclear activities, and because these procedures provide a potential role for the International Court, the United States made a declaration under paragraph 3 upon signature of the convention, and this declaration should be repeated upon ratification. The declaration is attached to the text of the convention. This will ensure that no third party can require the United States to provide information about military facilities or activities that we deem is not required under the convention.

The convention was opened for signature at the IAEA in Vienna on September 26, 1986 (article 12). A special provision permits the European Atomic Energy Community to become a party (paragraph 5 of article 12). The convention entered into force internationally, on October 27, 1986, since three states expressed consent to be bound on September 26, 1986. It will enter into force for each additional adhering state 30 days after that state expresses its consent to be bound (paragraphs 3 and 4 of article 12). A procedure for amendment of the convention is provided (article 14).

A state party may denounce the convention by written notice, effective one year following the date the notification is received by the depositary (article 15). The Director General of the IAEA is the depositary of the convention, charged with the duty of notifying all states of all significant developments concerning the convention (article 16).

Article 13 permits a state to declare it will apply the convention provisionally. The United States did not make such a declaration, preferring to await advice and consent to ratification by the Senate. Secretary Herrington did, however, state at the Special Session of the IAEA General Conference: "Pending ratification by the United States of the Convention on Early Notification of a Nuclear Accident, the United States will, in the event of a nuclear accident that would be covered by article 1 of the convention, voluntarily notify states that are or may be physically affected and the IAEA, and will voluntarily provide them available information relevant to minimizing the radiological consequences."

Convention on Assistance in the Case of a Nuclear Accident or Radiological Emergency.—The assistance convention establishes a framework under which a state party may provide assistance to another state party in the event of a nuclear accident or radiological emergency. It does not require any state party to offer, provide or accept assistance. Two of the articles described below have provisions which permit opting out. In his statement upon signing the convention on behalf of the United States, Secretary Herrington said: "It will facilitate U.S. offers of assistance if other nations accept all the provisions of these articles."

Article 1 contains a number of general statements, which are given specific effect in the subsequent articles in the convention. Paragraph 1 makes clear that in the event of a nuclear accident or radiological emergency, state parties shall cooperate as specified in

the other provisions of the convention. Paragraph 2 makes it clear that if states parties deem it in their mutual interest, they may carry out such cooperation through bilateral or multilateral arrangements as well.

Under article 2, a state party in need of assistance may call for such assistance from any other state party and from the IAEA. Each state to which such a request is addressed undertakes promptly to decide and notify the requesting state party whether it is in a position to render the assistance requested and the scope and terms of the assistance that might be rendered. State parties are asked, to the extent possible, to tell the IAEA in advance what assistance they might be willing to provide and on what terms. In keeping with these provisions and those of article 7, the United States declared at the time of signing that reimbursement of costs is among the terms of assistance it may provide unless the United States explicitly specifies otherwise or waives reimbursement. This declaration should be repeated upon ratification. The declaration is attached to the text of the convention.

Article 3 deals with the direction and control of assistance. Unless otherwise agreed, the overall direction and control is the responsibility of the requesting state within its territory, but the assisting party is called upon to designate a person in charge of immediate operational supervision over assisting personnel and their equipment. The requesting party is to provide local facilities to the extent possible. The ownership of equipment and materials used in the assistance is not affected.

Under article 4, each state party is required to make known to the IAEA and to other state parties its competent authorities and point of contact for making and receiving requests for assistance and for accepting offers of assistance. The points of contact and a focal point in the IAEA must be available continuously. The IAEA is required regularly and expeditiously to disseminate this information appropriately.

Article 5 requests the IAEA's assistance acting within its statute. It is to collect and disseminate information on the types of assistance that could be made available in the event of a nuclear accident or radiological emergency. It is to assist a state party or member state that so requests in the preparation of emergency plans and appropriate legislation, developing appropriate training, radiation monitoring, and other matters. The IAEA is to make available to such states appropriate resources allocated for the purpose of conducting an initial assessment of the accident or emergency and to offer its good offices to such states in the event of a nuclear accident. It is to establish appropriate liaison with other international organizations on relevent matters. The IAEA conducts many of these activities already. In his final statement at the meeting at which the convention was negotiated, the leader of the U.S. delegation said he was gratified that this convention would not of itself result in requirements for additional resources for the IAEA and that it solidifies the role of the Agency in the area of nuclear safety. As noted above, this and other aspects of assistance to be provided by the IAEA are to be confined to peaceful uses applications and carried out in a manner consistent with the IAEA Statute.

Under article 6, the requesting state and assisting party are required to protect information that becomes available to either of them in connection with the assistance. During the negotiation, the United States made clear that this provision called for protection of information in accordance with the national law of each state party. Article 6 further says that this information shall be used exclusively for the purpose of the agreed assistance program. It calls upon the assisting party to make every effort to coordinate with the requesting state before releasing information to the public on the assistance that is provided.

Article 7 establishes a legal right to reimbursement of costs where assistance is provided on that basis. It makes clear that an assisting party may decide to offer assistance without costs—and lists factors to be taken into account when considering whether to make such an offer—and that reimbursement may be waived after the fact. The declaration mentioned in the discussion of article 2 makes clear the United States position on these matters.

Article 8 provides for "functional" privileges and immunities for the personnel of the assisting state (paragraph 1). Paragraphs 2 and 3 contain an elaboration of the key privileges and immunities that should be provided under this functional concept, relating to immunity from arrest, detention and legal process, exemption from taxes and duties, and immunity from seizure, requisition or attachment of property. A state may declare it is not bound by the specifics of paragraphs 2 and 3. Since the United States will normally be the assisting party, it is clearly in the U.S. interest for other states that become parties not to opt out of these provisions. To encourage this result, it is recommended that the United States accept those provisions but make clear that it will not be bound with respect to any party that opts out. The United States made such a "reciprocity" declaration upon signing which should be repeated upon ratification. The proposed text is attached. It should be noted that paragraph 6 of article 8 makes explicit that nothing in the article requires a requesting state to provide its nationals or permanent residents any privileges and immunities.

Article 9 calls upon state parties to seek to facilitate transit of assisting personnel, equipment and property through their territories.

Paragraph 1 of article 10 requires state parties to cooperate in order to facilitate the settlement of claims and legal proceedings under the article. Paragraph 2 provides an assisting party and personnel acting on its behalf certain basic protections from legal proceedings and liability that may arise out of the assistance that is provided. Unless otherwise agreed, the requesting state is required, with respect to death or injury of persons, damage to or loss of property, or damage to the environment caused within its territory in the course of the assistance: (a) not to bring legal proceedings against the assisting party, (b) to deal with third party claims, (c) to hold the assisting party harmless in regard to such claims, and (d) to compensate the assisting party for death of or injury to its personnel or loss of or damage to its equipment—except in the case of wilful misconduct. As with article 8(2) and (3), there is an opt out provision for this paragraph. A state may declare it is not bound by

paragraph 2 of article 10 or that it will not apply that paragraph in cases of gross negligence.

As noted above, since the United States will normally be the assisting party, it is clearly in the U.S. interest for other states that become parties not to opt out of this provision. To encourage this result, it is recommended that the United States accept these provisions but make clear that it will not be bound with respect to any party that opts out. The United States made such a "reciprocity" declaration upon signing which should be repeated upon ratification. The proposed text is attached. It should be noted that paragraph 3 of article 10 provides that the article shall not prevent compensation or indemnity available under any applicable international agreement or national law of any state. Paragraph 4 makes explicit that nothing in the article requires a requesting state to apply paragraph 2 to its nationals or permanent residents.

Under article 11, the requesting state or assisting party may at any time, after appropriate consultations and written notification, request termination of the assistance action.

Article 12 provides that the convention does not affect previous agreements or future agreements concluded in accordance with its object and purpose.

Article 13 concerns dispute settlement. Paragraph 2 establishes procedures for compulsory arbitration or submission to the International Court of Justice. Paragraph 3 allows a state to declare it is not bound by these procedures. As with the notification convention, the United States made such a declaration upon signature of the convention, and this declaration should be repeated upon ratification. The proposed text is attached.

The convention was opened for signature at the IAEA in Vienna on September 26, 1986 (article 14). A special provision permits the European Atomic Energy Community to become a party (paragraph 5 of article 14). The convention entered into force internationally on February 26, 1987, and will enter into force for each additional state adhering to it 30 days after that state expresses its consent to be bound (paragraphs 3 and 4 of article 14). A procedure for amendment of the convention is provided (article 16). A state party may denounce the convention by written notice, effective one year following the date the notification is received by the depositary (article 17). The Director General of the IAEA is the depositary of the convention, charged with the duty of notifying all states of all significant developments concerning the convention (article 18).

Article 15 permits a state to declare it will apply the convention provisionally. The United States did not make such a declaration, since ratification of the convention as a treaty with the advice and consent of the Senate is required under United States domestic law for the United States to be able to implement articles 8 and 10 fully.

I recommend that you transmit these conventions, with declarations, to the Senate with the recommendation that they be approved at an early date.

Respectfully submitted.

GEORGE P. SHULTZ.

INTERNATIONAL ATOMIC ENERGY AGENCY
AGENCE INTERNATIONALE DE L'ENERGIE ATOMIQUE
МЕЖДУНАРОДНОЕ АГЕНТСТВО ПО АТОМНОЙ ЭНЕРГИИ
ORGANISMO INTERNACIONAL DE ENERGIA ATOMICA

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IN REPLY PLEASE REFER TO
PRIERE DE RAPPELER LA REFERENCE

On behalf of the Director General of the International Atomic Energy Agency, I, Andronico O. Adede, Director of the Legal Division of the Secretariat, hereby certify that the attached are true copies each of the Convention on Early Notification of a Nuclear Accident and of the Convention on Assistance in the Case of a Nuclear Accident or Radiological Emergency, which were adopted on 26 September 1986 by the General Conference at its First Special Session. The Conventions were opened for signature at the Headquarters of the IAEA in Vienna on 26 September 1986 and at the Headquarters of the United Nations in New York on 6 October 1986.

10 October 1986

Attachments

Convention on Early Notification of a Nuclear Accident

The states parties to this convention,

Aware that nuclear activities are being carried out in a number of States.

Noting that comprehensive measures have been and are being taken to ensure a high level of safety in nuclear activities, aimed at preventing nuclear accidents and minimizing the consequences of any such accident, should it occur.

Desiring to strengthen further international co-operation in the safe development and use of nuclear energy.

Convinced of the need for States to provide relevant information about nuclear accidents as early as possible in order that transboundary radiological consequences can be minimized.

Noting the usefulness of bilateral and multilateral arrangements on information exchange in this area.

Have agreed as follows:

ARTICLE 1

Scope of application

1. This Convention shall apply in the event of any accident involving facilities or activities of a State Party or of persons or legal entities under its jurisdiction or control, referred to in paragraph 2 below, from which a release of radioactive material occurs or is likely to occur and which has resulted or may result in an international transboundary release that could be of radiological safety significance for another State.

2. The facilities and activities referred to in paragraph 1 are the following:

(a) any nuclear reactor wherever located;

(b) any nuclear fuel cycle facility;

(c) any radioactive waste management facility;

(d) the transport and storage of nuclear fuels or radioactive wastes;

(e) the manufacture, use, storage, disposal and transport of radioisotopes for agricultural, industrial, medical and related scientific and research purposes; and

(f) the use of radioisotopes for power generation in space objects.

ARTICLE 2

Notification and information

In the event of an accident specified in article 1 (hereinafter referred to as a "nuclear accident"), the State Party referred to in that article shall:

(a) forthwith notify, directly or through the International Atomic Energy Agency (hereinafter referred to as the "Agency"), those States which are or may be physically affected as specified in article 1 and the Agency of the nuclear accident, its nature, the time of its occurrence and its exact location where appropriate; and

(b) promptly provide the States referred to in sub-paragraph (a), directly or through the Agency, and the Agency with such available information relevant to minimizing the radiological consequences in those States, as specified in article 5.

ARTICLE 3

Other Nuclear Accidents

With a view to minimizing the radiological consequences, States Parties may notify in the event of nuclear accidents other than those specified in article 1.

ARTICLE 4

Functions of the Agency

The Agency shall:

(a) forthwith inform States Parties, Member States, other States which are or may be physically affected as specified in article 1 and relevant international intergovernmental organizations (hereinafter referred to as "international organizations") of a notification received pursuant to sub-paragraph (a) of article 2; and

(b) promptly provide any State Party, Member State or relevant international organization, upon request, with the information received pursuant to sub-paragraph (b) of article 2.

ARTICLE 5

Information to be provided

1. The information to be provided pursuant to sub-paragraph (b) of article 2 shall comprise the following data as then available to the notifying State Party:

(a) the time, exact location were appropriate, and the nature of the nuclear accident;

(b) the facility or activity involved;

(c) the assumed or established cause and the foreseeable development of the nuclear accident relevant to the transboundary release of the radioactive materials;

(d) the general characteristics of the radioactive release, including, as far as is practicable and appropriate, the nature, probable physical and chemcial form and the quantity, composition and effective height of the radioactive release;

(e) information on current and forecast meterological and hydrological conditions, necessary for forecasting the transboundary release of the radioactive materials;

(f) the results of environmental monitoring relevant to the transboundary release of the radioactive materials;

(g) the off-site protective measures taken or planned;

(h) the predicted behaviour over time of the radioactive release.

2. Such information shall be supplemented at appropriate intervals by further relevant information on the development of the emergency situation, including its foreseeable or actual termination.

3. Information received pursuant to sub-paragraph (b) of article 2 may be used without restriction, except when such information is provided in confidence by the notifying State Party.

ARTICLE 6

Consultations

A State Party providing information pursuant to sub-paragraph (b) of article 2, shall as far as is reasonably practicable, respond promptly to a request for further information or consultations sought by an affected State Party with a view to minimizing the radiological consequences in that State.

ARTICLE 7

Competent authorities and points of contact

1. Each State Party shall make known to the Agency and to other States Parties, directly or through the Agency, its competent authorities and point of contact for issuing and receiving the notification and information referred to in article 2. Such points of contact and a focal point within the Agency shall be available continously.

2. Each State Party shall promptly inform the Agency of any changes that may occur in the information referred to in paragraph 1.

3. The Agency shall maintain an up-to-date list of such national authorities and points of contact as well as points of contact of relevant international organizations and shall provide it to States Parties and Member States and to relevant international organizations.

ARTICLE 8

Assistance to States Parties

The Agency shall, in accordance with its Statute and upon a request of a State Party which does not have nuclear activities itself and borders on a State having an active nuclear programme but not Party, conduct investigations into the feasibility and establishment of an appropriate radiation monitoring system in order to facilitate the achievement of the objectives of this Convention.

ARTICLE 9

Bilateral and multilateral arrangements

In furtherance of their mutual interests, States Parties may consider, where deemed appropriate, the conclusion of bilateral or multilateral arrangements relating to the subject matter of this Convention.

ARTICLE 10

Relationship to other international agreements

This Convention shall not affect the reciprocal rights and obligations of States Parties under existing international agreements which relate to the matters covered by this Convention, or under future international agreement concluded in accordance with the object and purpose of this Convention.

ARTICLE 11

Settlement of disputes

1. In the event of a dispute between States Parties, or between a State Party and the Agency, concerning the interpretation or application of this Convention, the parties to the dispute shall consult with a view to the settlement of the dispute by negotiation or by any other peaceful means of settling disputes acceptable to them.

2. If a dispute of this character between States Parties cannot be settled within one year from the request for consultation pursuant to paragraph 1, it shall, at the request of any party to such dispute, be submitted to arbitration or referred to the International Court of Justice for decision. Where a dispute is submitted to arbitration, if, within six months from the date of the request, the parties to the dispute are unable to agree on the organization of the arbitration, a party may request the President of the International Court of Justice or the Secretary-General of the United Nations to appoint one or more arbitrators. In cases of conflicting requests by the parties to the dispute, the request to the Secretary-General of the United Nations shall have priority.

3. When signing, ratifying, accepting, approving or acceding to this Convention, a State may declare that it does not consider itself bound by either or both of the dispute settlement procedures provided for in paragraph 2. The other States Parties shall not be bound by a dispute settlement procedure provided for in paragraph 2 with respect to a State Party for which such a declaration is in force.

4. A State Party which has made a declaration in accordance with paragraph 3 may at any time withdraw it by notification to the depositary.

ARTICLE 12

Entry into force

1. This Convention shall be open for signature by all States and Namibia, represented by the United Nations Council for Namibia, at the Headquarters of the International Atomic Energy Agency in Vienna and at the Headquarters of the United Nations in New York, from 26 September 1986 and 6 October 1986 respectively, until its entry into force or for twelve months, whichever period is longer.

2. A State and Namibia, represented by the United Nations Council for Namibia, may express its consent to be bound by this Convention either by signature, or by deposit of an instrument of

ratification, acceptance or approval following signature made subject to ratification, acceptance or approval, or by deposit of an instrument of accession. The instruments of ratification, acceptance, approval or accession shall be deposited with the depositary.

3. This Convention shall enter into force thirty days after consent to be bound has been expressed by three States.

4. For each State expressing consent to be bound by this Convention after its entry force, this Convention shall enter into force for that State thirty days after the date of expression of consent.

5. (a) This Convention shall be open for accession, as provided for in this article, by international organizations and regional integration organizations constituted by sovereign States, which have competence in respect of the negotiation, conclusion and application of international agreements in matters covered by this Convention.

(b) In matters within their competence such organizations shall, on their own behalf, exercise the rights and fulfill the obligations which this Convention attributes to States Parties.

(c) When depositing its instrument of accession, such an organization shall communicate to the depositary a declaration indicating the extent of its competence in respect of matters covered by this Convention.

(d) Such an organization shall not hold any vote additional to those of its Member States.

ARTICLE 13

Provisional application

A State may, upon signature or at any later date before this Convention enters into force for it, declare that it will apply this Convention provisionally.

ARTICLE 14

Amendments

1. A State Party may propose amendments to this Convention. The proposed amendment shall be submitted to the depositary who shall circulate it immediately to all other States Parties.

2. If a majority of the States Parties request the depositary to convene a conference to consider the proposed amendments, the depositary shall invite all States Parties to attend such a conference to begin not sooner than thirty days after the invitations are issued. Any amendment adopted at the conference by a two-thirds majority of all States Parties shall be laid down in a protocol which is open to signature in Vienna and New York by all States Parties.

3. The protocol shall enter into force thirty days after consent to be bound has been expressed by three States. For each State expressing consent to be bound by the protocol after its entry into force, the protocol shall enter into force for that State thirty days after the date of expression of consent.

ARTICLE 15

Denunciation

1. A State Party may denounce this Convention by written notification to the depositary.

2. Denunciation shall take effect one year following the date on which the notification is received by the depositary.

ARTICLE 16

Depositary

1. The Director General of the Agency shall be the depositary of this Convention.

2. The Director General of the Agency shall promptly notify States Parties and all other States of:

(a) each signature of this Convention or any protocol of amendment;

(b) each deposit of an instrument of ratification, acceptance, approval or accession concerning this Convention or any protocol of amendment;

(c) any declaration or withdrawal thereof in accordance with article 11;

(d) any declaration of provisional application of this Convention in accordance with article 13;

(e) the entry into force of this Convention and of any amendment thereto; and

(f) any denunciation made under article 15.

ARTICLE 17

Authentic texts and certified copies

The original of this Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Director General of the International Atomic Energy Agency who shall send certified copies to States Parties and all other States.

IN WITNESS WHEREOF the undersigned, being duly authorized, have signed this Convention, open for signature as provided for in paragraph 1 of article 12.

ADOPTED by the General Conference of the International Atomic Energy Agency meeting in special session at Vienna on the twenty-sixth day of September one thousand nine hundred and eighty-six.

DECLARATION ON THE PART OF THE UNITED STATES OF AMERICA WITH RESPECT TO THE CONVENTION ON EARLY NOTIFICATION OF A NUCLEAR ACCIDENT

As provided for in paragraph 3 of article 11, the United States declares that it does not consider itself bound by either of the dispute settlement procedures provided for in paragraph 2 of that article.

Convention on Assistance in the Case of a Nuclear Accident or Radiological Emergency

The states parties to this convention,

Aware that nuclear activities are being carried out in a number of States,

Noting that comprehensive measures have been and are being taken to ensure a high level of safety in nuclear activities, aimed at preventing nuclear accidents and minimizing the consequences of any such accident, should it occur,

Desiring to strengthen further international co-operation in the safe development and use of nuclear energy,

Convinced of the need for an international framework which will facilitate the prompt provision of assistance in the event of a nuclear accident or radiological emergency to mitigate its consequences,

Noting the usefulness of bilateral and multilateral arrangements on mutual assistance in this area,

Noting the activities of the International Atomic Energy Agency in developing guidelines for mutual emergency assistance arrangements in connection with a nuclear accident or radiological emergency,

Have agreed as follows:

ARTICLE 1

General provisions

1. The States Parties shall cooperate between themselves and with the International Atomic Energy Agency (hereinafter referred to as the "Agency") in accordance with the provisions of this Convention to facilitate prompt assistance in the event of a nuclear accident or radiological emergency to minimize its consequences and to protect life, property and the environment from the effects of radioactive releases.

2. To facilitate such cooperation States Parties may agree on bilateral or multilateral arrangements or, where appropriate, a combination of these, for preventing or minimizing injury and damage which may result in the event of a nuclear accident or radiological emergency.

3. The States Parties request the Agency, acting within the framework of its Statute, to use its best endeavours in accordance with the provisions of this Convention to promote, facilitate and support the cooperation between States Parties provided for in this Convention.

ARTICLE 2

Provision of assistance

1. If a State Party needs assistance in the event of a nuclear accident or radiological emergency, whether or not such accident or emergency originates within its territory, jurisdiction or control, it may call for such assistance from any other State Party, directly or through the Agency, and from the Agency, or, where appropriate, from other international intergovernmental organizations (hereinafter referred to as "international organizations").

2. A State Party requesting assistance shall specify the scope and type of assistance required and, where practicable, provide the assisting party with such information as may be necessary for that party to determine the extent to which it is able to meet the request. In the event that it is not practicable for the requesting State Party to specify the scope and type of assistance required, the requesting State Party and the assisting party shall, in consultation, decide upon the scope and type of assistance required.

3. Each State Party to which a request for such assistance is directed shall promptly decide and notify the requesting State Party, directly or through the Agency, whether it is in a position to render the assistance requested, and the scope and terms of the assistance that might be rendered.

4. States Parties shall, within the limits of their capabilities, identify and notify the Agency of experts, equipment and materials which could be made available for the provision of assistance to other States Parties in the event of a nuclear accident or radiological emergency as well as the terms, especially financial, under which such assistance could be provided.

5. Any State Party may request assistance relating to medical treatment or temporary relocation into the territory of another State Party of people involved in a nuclear accident or radiological emergency.

6. The Agency shall respond, in accordance with its Statute and as provided for in this Convention, to a requesting State Party's or a Member State's request for assistance in the event of a nuclear accident or radiological emergency by:

(a) making available appropriate resources allocated for this purpose;

(b) transmitting promptly the request to other States and international organizations which, according to the Agency's information, may possess the necessary resources; and

(c) if so requested by the requesting State, co-ordinating the assistance at the international level which may thus become available.

ARTICLE 3

Direction and control of assistance

Unless otherwise agreed:

(a) the overall direction, control, co-ordination and supervision of the assistance shall be the responsibility within its territory of the requesting State. The assisting party should,

where the assistance involves personnel, designate in consultation with the requesting State, the person who should be in charge of and retain immediate operational supervision over the personnel and the equipment provided by it. The designated person should exercise such supervision in cooperation with the appropriate authorities of the requesting State;

(b) the requesting State shall provide, to the extent of its capabilities, local facilities and services for the proper and effective administration of the assistance. It shall also ensure the protection of personnel, equipment and materials brought into its territory by or on behalf of the assisting party for such purpose;

(c) ownership of equipment and materials provided by either party during the periods of assistance shall be unaffected, and their return shall be ensured;

(d) a State Party providing assistance in response to a request under paragraph 5 of article 2 shall co-ordinate that assistance within its territory.

ARTICLE 4

Competent authorities and points of contact

1. Each State Party shall make known to the Agency and to other States Parties, directly or through the Agency, its competent authorities and point of contact authorized to make and receive requests for and to accept offers of assistance. Such points of contact and a focal point within the Agency shall be available continuously.

2. Each State Party shall promptly inform the Agency of any changes that may occur in the information referred to in paragraph 1.

3. The Agency shall regularly and expeditiously provide to States Parties, Member States and relevant international organizations the information referred to in paragraphs 1 and 2.

ARTICLE 5

Functions of the Agency

The States Parties request the Agency, in accordance with paragraph 3 of article 1 and without prejudice to other provisions of this Convention, to:

(a) collect and disseminate to States Parties and Member States information concerning:

(i) experts, equipment and materials which could be made available in the event of nuclear accidents or radiological emergencies;

(ii) methodologies, techniques and available results of research relating to response to nuclear accidents or radiological emergencies;

(b) assist a State Party or a Member State when requested in any of the following or other appropriate matters:

(i) preparing both emergency plans in the case of nuclear accidents and radiological emergencies and the appropriate legislation;

(ii) developing appropriate training programmes for personnel to deal with nuclear accidents and radiological emergencies;

(iii) transmitting requests for assistance and relevant information in the event of a nuclear accident or radiological emergency,

(iv) developing appropriate radiation monitoring programmes, procedures and standards;

(v) conducting investigations into the feasibility of establishing appropriate radiation monitoring systems;

(c) make available to a State Party or a Member State requesting assistance in the event of a nuclear accident or radiological emergency appropriate resources allocated for the purpose of conducting an initial assessment of the accident or emergency;

(d) offer its good offices to the States Parties and Member States in the event of a nuclear accident or radiological emergency;

(e) establish and maintain liaison with relevant international organizations for the purposes of obtaining and exchanging relevant information and data, and make a list of such organizations available to States Parties, Member States and the aforementioned organizations.

ARTICLE 6

Confidentiality and public statements

1. The requesting State and the assisting party shall protect the confidentiality of any confidential information that becomes available to either of them in connection with the assistance in the event of a nuclear accident or radiological emergency. Such information shall be used exclusively for the purpose of the assistance agreed upon.

2. The assisting party shall make every effort to coordinate with the requesting State before releasing information to the public on the assistance provided in connection with a nuclear accident or radiological emergency.

ARTICLE 7

Reimbursement of costs

1. An assisting party may offer assistance without costs to the requesting State. When considering whether to offer assistance on such a basis, the assisting party shall take into account:

(a) the nature of the nuclear accident or radiological emergency;

(b) the place of origin of the nuclear accident or radiological emergency;

(c) the needs of developing countries;

(d) the particular needs of countries without nuclear facilities; and

(e) any other relevant factors.

2. When assistance is provided wholly or partly on a reimbursement basis, the requesting State shall reimburse the assisting party

for the costs incurred for the services rendered by persons or organizations acting on its behalf, and for all expenses in connection with the assistance to the extent that such expenses are not directly defrayed by the requesting State. Unless otherwise agreed, reimbursement shall be provided promptly after the assisting party has presented its request for reimbursement to the requesting State, and in respect of costs other than local costs, shall be freely transferrable.

3. Notwithstanding paragraph 2, the assisting party may at any time waive, or agree to the postponement of, the reimbursement in whole or in part. In considering such waiver or postponement, assisting parties shall give due consideration to the needs of developing countries.

ARTICLE 8

Privileges, immunities and facilities

1. The requesting State shall afford to personnel of the assisting party and personnel acting on its behalf the necessary privileges, immunities and facilities for the performance of their assistance functions.

2. The requesting State shall afford the following privileges and immunities to personnel of the assisting party or personnel acting on its behalf who have been duly notified to and accepted by the requesting State:

(a) immunity from arrest, detention and legal process, including criminal, civil and administrative jurisdiction, of the requesting State, in respect of acts or omissions in the performance of their duties; and

(b) exemption from taxation, duties or other charges, except those which are normally incorporated in the price of goods or paid for services rendered, in respect of the performance of their assistance functions.

3. The requesting State shall:

(a) afford the assisting party exemption from taxation, duties or other charges on the equipment and property brought into the territory of the requesting State by the assisting party for the purpose of the assistance; and

(b) provide immunity from seizure, attachment or requisition of such equipment and property.

4. The requesting State shall ensure the return of such equipment and property. If requested by the assisting party, the requesting State shall arrange, to the extent it is able to do so, for the necessary decontamination of recoverable equipment involved in the assistance before its return.

5. The requesting State shall facilitate the entry into, stay in and departure from its national territory of personnel notified pursuant to paragraph 2 and of equipment and property involved in the assistance.

6. Nothing in this article shall require the requesting State to provide its nationals or permanent residents with the privileges and immunities provided for in the foregoing paragraphs.

7. Without prejudice to the privileges and immunities, all beneficiaries enjoying such privileges and immunities under this article

have a duty to respect the laws and regulations of the requesting State. They shall also have the duty not to interfere in the domestic affairs of the requesting State.

8. Nothing in this article shall prejudice rights and obligations with respect to privileges and immunities afforded pursuant to other international agreements or the rules of customary international law.

9. When signing, ratifying, accepting, approving or acceding to this Convention, a State may declare that it does not consider itself bound in whole or in part by paragraphs 2 and 3.

10 A State Party which has made a declaration in accordance with paragraph 9 may at any time withdraw it by notification to the depositary.

ARTICLE 9

Transit of personnel, equipment and property

Each State Party shall, at the request of the requesting State or the assisting party, seek to facilitate the transit through its territory of duly notified personnel, equipment and property involved in the assistance to and from the requesting State.

ARTICLE 10

Claims and compensation

1. The States Parties shall closely cooperate in order to facilitate the settlement of legal proceedings and claims under this article.

2. Unless otherwise agreed, a requesting State shall in respect of death or of injury to persons, damage to or loss of property, or damage to the environment caused within its territory or other area under its jurisdiction or control in the course of providing the assistance requested:

(a) not bring any legal proceedings against the assisting party or persons or other legal entities acting on its behalf;

(b) assume responsibility for dealing with legal proceedings and claims brought by third parties against the assisting party or against persons or other legal entities acting on its behalf.

(c) hold the assisting party or persons or other legal entities acting on its behalf harmless in respect of legal proceedings and claims referred to in sub-paragraph (b); and

(d) compensate the assisting party or persons or other legal entities acting on its behalf for:

(i) death of or injury to personnel of the assisting party or persons acting on its behalf;

(ii) loss of or damage to non-consumable equipment or materials related to the assistance;

except in cases of wilful misconduct by the individuals who caused the death, injury, loss or damage.

3. This article shall not prevent compensation or indemnity available under any applicable international agreement or national law of any State.

4. Nothing in this article shall require the requesting State to apply paragraph 2 in whole or in part to its nationals or permanent residents.

5. When signing, ratifying, accepting, approving or acceding to this Convention, a State may declare:

(a) that it does not consider itself bound in whole or in part by paragraph 2;

(b) that it will not apply paragraph 2 in whole or in part in cases of gross negligence by the individuals who caused the death, injury, loss or damage.

6. A State Party which has made a declaration in accordance with paragraph 5 may at any time withdraw it by notification to the depositary.

ARTICLE 11

Termination of assistance

The requesting State or the assisting party may at any time, after appropriate consultations and by notification in writing, request the termination of assistance received or provided under this Convention. Once such a request has been made, the parties involved shall consult with each other to make arrangements for the proper conclusion of the assistance.

ARTICLE 12

Relationship to other international agreements

This Convention shall not affect the reciprocal rights and obligations of States Parties under existing international agreements which relate to the matters covered by this Convention, or under future international agreements concluded in accordance with the object and purpose of this Convention.

ARTICLE 13

Settlement of disputes

1. In the event of a dispute between States Parties, or between a State Party and the Agency, concerning the interpretation or application of this Convention, the parties to the dispute shall consult with a view to the settlement of the dispute by negotiations or by any other peaceful means of settling disputes acceptable to them.

2. If a dispute of this character between States Parties cannot be settled within one year from the request for consultation pursuant to paragraph 1, it shall, at the request of any party to such dispute, be submitted to arbitration or referred to the International Court of Justice for decision. Where a dispute is submitted to arbitration, if, within six months from the date of the request, the parties to the dispute are unable to agree on the organization of the arbitration, a party may request the President of the International Court of Justice or the Secretary-General of the United Nations to appoint one or more arbitrators. In cases of conflicting requests by the parties to the dispute, the request to the Secretary-General of the United Nations shall have priority.

3. When signing, ratifying, accepting, approving or acceding to this Convention, a State may declare that it does not consider itself bound by either or both of the dispute settlement procedures provided for in paragraph 2. The other States Parties shall not be

bound by a dispute settlement procedure provided for in paragraph 2 with respect to a State Party for which such a declaration is in force.

4. A State Party which has made a declaration in accordance with paragraph 3 may at any time withdraw it by notification to the depositary.

ARTICLE 14

Entry into force

1. This Convention shall be open for signature by all States and Namibia, represented by the United Nations Council for Namibia, at the Headquarters of the International Atomic Energy Agency in Vienna and at the Headquarters of the United Nations in New York, from 26 September 1986 and 6 October 1986 respectively, until its entry into force or for twelve months, whichever period is longer.

2. A State and Namibia, represented by the United Nations Council for Namibia, may express its consent to be bound by this Convention either by signature, or by deposit of an instrument of ratification, acceptance or approval following signature made subject to ratification, acceptance or approval, or by deposit of an instrument of accession. The instruments of ratification, approval or accession shall be deposited with the depositary.

3. This Convention shall enter into force thirty days after consent to be bound has been expresed by three States.

4. For each State expressing consent to be bound by this Convention after its entry into force, this Convention shall enter into force for that State thirty days after the date of expression of consent.

5. (a) This Convention shall be open to accession, as provided for in this article, by international organizations and regional integration organizations constituted by sovereign States, which have competence in respect of the negotiation, conclusion and application of international agreements in matters covered by this Convention.

(b) In matters within their competence such organizations shall, on their own behalf, exercise the rights and fulfill the obligations which this Convention attributes to State Parties.

(c) When depositing its instrument of accessions, such an organization shall communicate to the depositary a declaration indicating the extent of its competence in respect of matters covered by this Convention.

(d) Such an organization shall not hold any vote additional to those of its Member States.

ARTICLE 15

Provisional application

A State may, upon signature or at any later date before this Convention enters into force for it, declare that it will apply this Convention provisionally.

ARTICLE 16

Amendments

1. A State Party may propose amendments to this Convention. The proposed amendment shall be submitted to the depositary who shall circulate it immediately to all other States Parties.

2. If a majority of the States Parties request the depositary to convene a conference to consider the proposed amendments, the depositary shall invite all States Parties to attend such a conference to begin not sooner than thirty days after the invitations are issued. Any amendment adopted at the conference by a two-thirds majority of all States Parties shall be laid down in a protocol which is open to signature in Vienna and New York by all States Parties.

3. The protocol shall enter into force thirty days after consent to be bound has been expressed by three States. For each State expressing consent to be bound by the protocol after its entry into force, the protocol shall enter into force for that State thirty days after the date of expression of consent.

ARTICLE 17

Denunciation

1. A State Party may denounce this Convention by written notification to the depositary.

2. Denunciation shall take effect one year following the date on which the notification is received by the depositary.

ARTICLE 18

Depositary

1. The Director General of the Agency shall be the depositary of this Convention.

2. The Director General of the Agency shall promptly notify States Parties and all other States of:

(a) each signature of this Convention or any protocol of amendment;

(b) each deposit of an instrument of ratification, acceptance, approval or accession concerning this Convention or any protocol of amendment;

(c) any declaration or withdrawal thereof in accordance with articles 8, 10 and 13;

(d) any declaration of provisional application of this Convention in accordance with article 15;

(e) the entry into force of this Convention and of any amendment thereto; and

(f) any denunciation made under article 17.

ARTICLE 19

Authentic texts and certified copies

The original of this Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Director General of the International

Atomic Energy Agency who shall send certified copies to States Parties and all other States.

IN WITNESS WHEREOF the undersigned, being duly authorized, have signed this Convention, open for signature as provided for in paragraph 1 of article 14.

ADOPTED by the General Conference of the International Atomic Energy Agency meeting in special session at Vienna on the twenty-sixth day of September one thousand nine hundred and eighty-six.

DECLARATION ON THE PART OF THE UNITED STATES OF AMERICA WITH RESPECT TO THE CONVENTION ON ASSISTANCE IN THE CASE OF A NUCLEAR ACCIDENT OR RADIOLOGICAL EMERGENCY

In accordance with paragraph 3 and 4 of article 2 and paragraph 2 of article 7, the United States declares that reimbursement of costs is among the terms of assistance it may provide unless the United States explicitly specifies otherwise or waives reimbursement.

With respect to any other State Party that has declared pursuant to paragraph 9 of article 8 that it does not consider itself bound in whole or in part by paragraph 2 or 3, the United States declares pursuant to paragraph 9 that in its treaty relations with that State the United States does not consider itself bound by paragraphs 2 and 3 to the same extent provided in the declaration of that other State Party.

With respect to any other State Party that has declared pursuant to paragraph 5 of article 10 that it does not consider itself bound in whole or in part by paragraph 2 or that it will not apply paragraph 2 in whole or in part in cases of gross negligence, the United States declares pursuant to paragraph 5 that in its treaty relations with that State the United States does not consider itself bound by paragraph 2 to the same extent as provided in the declaration of that other State Party.

As provided for in paragraph 3 of article 13, the United States declares that it does not consider itself bound by either of the dispute settlement procedures provided for in paragraph 2 of that article.

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